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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,022	11/26/2003	Lisa M. Rickards	123210020002	8857

7590

07/11/2005

Lorri W. Cooper  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, OH 44114

EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/723,022

Applicant(s)

RICKARDS, LISA M.

Examiner

James F. Hook

Art Unit

3754

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

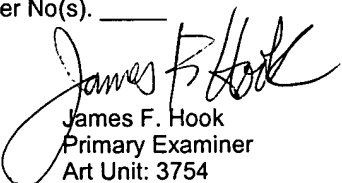
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-7 and 12-33.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
James F. Hook  
Primary Examiner  
Art Unit: 3754

Continuation of 3. NOTE: the proposed additional language to claim 1 includes limitations from claim 3 which once combined with claim 1 will create a new issue in that the remaining dependent claims on claim 1 will now have the included claim 3 limitations where such were not required in the previous amendment when the dependent claims were not dependent upon this limitation, therefore it creates a new issue. Also, claim 1 has added limitations from another claim set which were not present in combination with claim 1 before, therefore such is also a new issue. Claim 28 combines limitations from dependent claim 30, however, such limitations combined with claim independent claim 28 and its limitations creates a new combination with regards to the remaining dependent claims which were not considered before having the limitations of claim 30 combined therewith claim 28. This is also a new issue requiring further search and consideration and will not be entered at this time. The examiner confirmed this with his Supervisor even though such is not required. With regards to the request for a telephone interview, such will be granted if the applicant deems necessary, but at this time the examiner does not have any suggested language that could be added at this point in the prosecution without creating a new issue. With respect to the drawings, formal drawings are not required until the point of allowance, and generally such is noted on the Notice of Allowability at that point in the prosecution, however, the examiner acknowledges that formal drawings have been received and appear to be proper and therefore approved. With respect to the issue of the subject matter of the previous office action not covering limitations, the examiner has mentioned such limitations in the 103 rejection in the final rejection, and the changes made by applicant in scope of these limitations from the first set of claims provided lead to the need to change the rejection and therefore such a change in rejection is permitted and the action made final. It should be noted that the amendment of October 25, 2004 added the limitation that the handle was separate and positioned partially circumferentially around the sleeve both of which are different in scope than the originally filed claims, therefore requiring the change in the office action. It is also noted that such changes also changed the combination limitations where certain limitations and their combination with other limitations were changed, much the same as the above changes, which would require different action be taken due to the new combination of limitations, however, such would have no bearing on whether an advisory action is appropriate at this time.